

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HANK W. BARTSCH,	§
	§
Defendant Below-	§ No. 722, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0903015740
Plaintiff Below-	§
Appellee.	§

Submitted: March 9, 2011

Decided: March 28, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 28th day of March 2011, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Hank Bartsch, filed this appeal following his sentencing for a violation of probation. Bartsch's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Bartsch's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Bartsch's attorney informed him of the provisions of Rule 26(c) and provided Bartsch with a copy of the motion to withdraw and the

accompanying brief. Bartsch also was informed of his right to supplement his attorney's presentation. Bartsch has not raised any issues for this Court's consideration. The State has responded to the position taken by Bartsch's counsel and has moved to affirm the Superior Court's judgment.

(2) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

(3) This Court has reviewed the record carefully and has concluded that Bartsch's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Bartsch's counsel has made a conscientious effort to examine the record and the law and has properly determined that Bartsch could not raise a meritorious claim in this appeal.

* *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice